

REMARKS

The final Office Action dated December 27, 2006, and the patents and publications cited therein have been carefully reviewed, and in view of the above changes and following remarks reconsideration and allowance of all the claims pending in the application are respectfully requested.

Claims 1-22 stand finally rejected. By this Amendment, claims 1 and 12 have been amended, and claims 8 and 19 have been canceled. Claims 1-7, 9-18 and 20-22 remain pending.

The Amendments To The Claims

Applicant has amended claims 1 and 12 to respectively include limitations from claims 8 and 19. Claims 8 and 19 have been accordingly canceled

The Rejections Of Claims 1-8 And 12-18

Claims 1 and 12 stand finally rejected under 35 U.S.C. § 102(e) as anticipated by Watt, U.S. Patent Application Publication 2003/0126202. Additionally, claims 2-8 and 13-19 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Watt as applied to claim 1, and further in view of Sheets et al. (Sheets), U.S. Patent No. 6,819,905.

Because Applicant has amended claims 1 and 12 to respectively include limitations from claims 8 and 19, and claims 8 and 19 have been canceled (as described above), Applicant's remarks that follow are addressed to the rejection based on Watt in view of Sheets as if the Examiner rejected claims 1-7 and 12-18 as unpatentable over Watt in view of Sheets.

Applicant respectfully traverses the rejection based on Watt in view of Sheets. In that regard, Applicant respectfully submits that the subject matter according to any of claims 1-7 and 12-18 is patentable over Watts in view of Sheets.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the

art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Applicant's disclosure. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (See, also, MPEP §§ 706.02(j) and 2143).

Regarding the first basic criterion for establishing a *prima facie* case of obviousness, Applicant respectfully submits that contrary to the Examiner's statement, there simply is no suggestion in either Watt or Sheets "to combine the method of replication as disclosed in Watt with the data and state information being associated with the system user in the master storage image as occurs in Sheets et al. because of the advantage of being able to keep the data separate for each user." (See final Office Action, page 14, lines 13-18.) The Examiner admits that "Watt fails to teach the master storage image is pre-configured with data and state information that is associated with a system user." (See final Office Action, page 14, lines 5-7.) Moreover, the Examiner does not indicate that Watt suggests that the master storage image can be pre-configured with data and state information that is associated with a system user. Consequently, if a proper suggestion or motivation exists to combine Watt and Sheets, such a suggestion must necessarily be provided by Sheets.

Turning to Sheets, Applicant respectfully submits that the syllogism used by the Examiner to form the combination of Watt and Sheets is without basis. In particular, the major premise of the Examiner syllogism is that Sheets discloses at column 15, lines 8-14, that "[o]ne of the significant advantages of the present invention is that the process of reconfiguring servers from one administrative group to a second administrative group will wipe clean all of the state associated with a particular customer account for the first administrative group from the reallocated server before that server is brought into service as part of the second administrative group."

The Examiner's minor premise is that "Sheets et al. teaches the master storage image is pre-configured with data and state information that is associated with a system user." (See final Office Action, page 14, lines 7-9.)

The Examiner then concludes from the major and minor premises that "[i]t would have been obvious to one of ordinary skill in the art to combine the method of replication as disclosed in Watt with the data and state information being associated with the system user in the master storage image as occurs in Sheets et al. because of the advantage of being able to keep the data separate for each user" because "[s]ecurity is enhanced and the unique data can be kept separate. Moreover, the Examiner asserts that "[i]t is for this reason that one of ordinary skill in the art would have been motivated to have the master storage image pre-configured with data and state information that is associated with a system user." (See final Office Action, page 14, lines 13-20.)

Applicant respectfully submits that the Examiner's conclusion to the syllogism simply does not follow from the major and minor premises. More specifically, Applicant respectfully submits that while Sheets discloses the concept of reconfiguring servers from one administrative group to a second administrative group by wiping clean all of the state associated with a particular customer account for the first administrative group from the reallocated server before that server is brought into service as part of the second administrative group (major premise), Sheets discloses and/or suggests nothing about teaching that the master storage image is pre-configured with data and state information that is associated with a system user. Further, it is respectfully noted that the Examiner's minor premise that "Sheets et al. teaches the master storage image is pre-configured with data and state information that is associated with a system user" is without basis because the portion of Sheets cited by the Examiner only relates reconfiguring servers from one administrative group to a second administrative group by wiping clean all of the state associated with a particular customer account for the first administrative group from the reallocated server before that server is brought into service as part of the second administrative group." Accordingly, Applicant respectfully submits that Examiner's minor

premise is, at best, wishful thinking based on the Examiner's major premise. Thus, the Examiner's conclusion to the syllogism is plainly without basis.

Lastly regarding the first basic criterion for establishing a *prima facie* case of obviousness, Applicant respectfully submits that the Examiner has not asserted and/or identified any knowledge that is generally available to one of ordinary skill that suggests or motivates one of ordinary skill in the art to modify or combine Watt and Sheets. Thus, Applicant respectfully submits that the proffered combination of Watt and Sheets is formed by impermissible hindsight because neither Watt nor Sheets suggest the proffered combination. Even if the proffered combination of Watt and Sheets is formed, the resulting method and device are not the subject matter according to any of claims 1-7 and 12-18.

Regarding amended claim 1, Applicant respectfully submits that neither Watt nor Sheets disclose or suggest a method comprising pre-configuring at least one identified master storage image with data and state information that is associated with a system user. Regarding Watt, the Examiner admits that "Watt fails to teach the master storage image is pre-configured with data and state information that is associated with a system user." (See final Office Action, page 14, lines 5-7.) Regarding Sheets, Applicant has demonstrated above that the Examiner statement regarding Sheets, that is, that "Sheets et al. teaches the master storage image is pre-configured with data and state information that is associated with a system user" (see final Office Action, page 14, lines 7-9) is without basis.

Thus, amended claim 1 is allowable over Watt in view of Sheets. It follows that claims 2-7, which each incorporate the limitations of amended claim 1, are each allowable over Watt in view of Sheets for at least the same reasons that amended claim 1 is considered allowable.

Regarding amended claim 12, Applicant respectfully submits that amended claim 12 is allowable over Watt in view of Sheets for at least reasons that are similar to the reasons that amended claim 1 is considered allowable. In particular, Applicant respectfully submits that neither Watt nor Sheets disclose or suggest a storage provisioning device provisioning device identifying at least one master storage image that is stored in the storage and that will be

associated with a system user when a server is allocated to the system user, such that at least one master storage image is pre-configured with data and state information that is associated with a system user.

Thus, amended claim 12 is allowable over Watt in view of Sheets. It follows that claims 13-18, which each incorporate the limitations of amended claim 12, are each allowable over Watt in view of Sheets for at least the same reasons that amended claim 12 is considered allowable.

Thus, Applicant respectfully submits that it is only by impermissible hindsight that the Examiner is able to reject claims 1-7 and 12-18 based on the proffered combination. Neither of the applied patents provides a proper suggestion for combination, and even if they did, the method and the device resulting from the proffered combination is simply not the claimed subject matter. It is only by the Applicant's disclosure that the Examiner can attempt to select particular features of Watt and Sheets to make the rejection.

Consequently, Applicant respectfully requests that the Examiner withdraw this rejection and allow claims 1-7 and 12-18.

The Rejection Under 35 U.S.C. § 103(a) Over Watt In View of Haun

Claims 9 and 20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Watt in view of Haun et al. (Haun), U.S. Patent No. 6,751,058.

Applicant respectfully traverses this rejection. In that regard, Applicant respectfully submits that the subject matter according to either of claims 9 and 20 is patentable over Watt in view of Haun.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there

must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Applicant's disclosure. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (See, also, MPEP §§ 706.02(j) and 2143).

Regarding the first basic criterion for establishing a *prima facie* case of obviousness, Applicant respectfully submits that contrary to the Examiner's statement, there simply is no suggestion in either Watt or Haun "to provide a separate writable area as disclosed by Haun et al. with the allocation method disclosed in Watt because separating the writable area keeps the data from being corrupted as well as providing a layer of security." (See final Office Action, page 17, lines 8-11.) The Examiner admits that "Watt fails to teach allocating a separate writable data volume of the writable data portion of the selected master storage image to each server allocated to the system. (See final Office Action, page 16, lines 14-16.) Moreover, the Examiner does not indicate that Watt suggests allocating a separate writable data volume of the writable data portion of the selected master storage image to each server allocated to the system. Consequently, if a proper suggestion or motivation exists to combine Watt and Haun, such a suggestion must necessarily be provided by Haun.

Turning to Haun, Applicant respectfully submits that the syllogism used by the Examiner to form the combination of Watt and Haun is without basis. In particular, the major premise of the Examiner syllogism is that Haun discloses at column 2, lines 50-55, that "[a]ccording to one embodiment of the present invention, a network computer (NC) system maintains a copy of the operating system that cannot be corrupted by ordinary users of the NC system. Additionally, the NC system may preserve user customizations, such as preferences, by maintaining individual, user, storage areas."

The Examiner's minor premise for the syllogism is that "Haun et al. teaches allocating a separate writable data volume of the writeable data portion of the selected master storage image to each server allocated to the system user." (See final Office Action, page 17, lines 1-3.)

The Examiner then concludes from the major and minor premises that "[i]t would have been obvious to one of ordinary skill in the art to provide a separate writeable area as disclosed by Haun et al. with the allocation method disclosed in Watt because separating the writable area keeps the data from being corrupted as well as providing a layer of security" because "one of ordinary skill in the art would have been motivated to allocate a separate writable volume of the writable data portion of the selected master storage image to each server allocated to the system user." (See final Office Action, page 17, lines 8-14.)

Applicant respectfully submits that the Examiner's conclusion to the syllogism simply does not follow from the major and minor premises. More specifically, Applicant respectfully submits that while Haun discloses the concept of avoiding corruption of the copy of the operating system (major premise), Haun discloses and/or suggests nothing about avoiding the user customizations being corrupted or needing a layer of security. Further, it is respectfully noted that the Examiner's minor premise that "Haun et al. teaches allocating a separate writable data volume of the writeable data portion of the selected master storage image to each server allocated to the system user" is without basis because the portion of Haun cited by the Examiner only relates to individual user customizations or preferences, not to each server allocated to a system user. Further still, the Examiner's minor premise states nothing regarding avoiding the user customizations being corrupted or needing a layer of security, but instead the Examiner merely concludes that there is a separate writable area.

Thus, the Examiner's minor premise is without basis, and the Examiner's conclusion to the syllogism does not follow from the major premise and (baseless) minor premise. Accordingly, the Examiner's syllogism is simply without basis.

Lastly regarding the first basic criterion for establishing a *prima facie* case of obviousness, Applicant respectfully submits that the Examiner has not asserted and/or identified any knowledge that is generally available to one of ordinary skill that suggests or motivates one

of ordinary skill in the art to modify or combine Watt and Haun. Thus, Applicant respectfully submits that the proffered combination of Watt and Haun is formed by impermissible hindsight because neither Watt nor Haun suggest the proffered combination. Even if the proffered combination of Watt and Haun is formed, the resulting method and device are not the subject matter according to either of claims 9 and 20.

Regarding claim 9, Applicant respectfully submits that neither Watt nor Haun disclose or suggest a method comprising allocating a separate writable data volume of the writable data portion of the selected master storage image to each server allocated to the system user. The Examiner admits that Watt does not disclose or suggest this limitation of claim 9. (See final Office Action, page 16, lines 14-16.) Regarding Haun, Applicant has demonstrated above that the Examiner statement regarding Haun, that is, that “Haun et al. teaches allocating a separate writable data volume of the writeable data portion of the selected master storage image to each server allocated to the system user” (see final Office Action, page 17, lines 1-3) is without basis.

Thus, claim 9 is allowable over Watt in view of Haun.

Regarding claim 20, Applicant respectfully submits that claim 20 is allowable over Watt in view of Haun for reasons that are similar to the reasons that claim 9 is considered allowable over Watt in view of Haun. More specifically, Applicant respectfully submits that neither Watt nor Haun disclose or suggest a storage provisioning device allocating a separate writable data volume of the writable data portion of the selected master storage image to each server allocated to the system user.

Thus, Applicant respectfully submits that it is only by impermissible hindsight that the Examiner is able to reject claims 9 and 20 based on the proffered combination. Neither Watt nor Haun provides a proper suggestion for combination, and even if they did, the method and the device resulting from the proffered combination is simply not the claimed subject matter. It is only by the Applicant’s disclosure that the Examiner can attempt to select particular features of Watt and Haun to make the rejection.

Consequently, Applicants respectfully request that the Examiner withdraw this rejection and allow claims 9 and 20.

**The Rejection Under 35 U.S.C. § 103(a) Over Watt
In View of Haun And Further In View Of Sheets**

Claims 10, 11, 21 and 22 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Watt in view of Haun, and further in view of Sheets.

Applicant respectfully traverses this rejection. Applicant respectfully submits that the subject matter according to any of claims 10, 11, 21 and 22 is patentable over Watt in view of Haun, and further in view of Sheets. In particular, Applicant respectfully submits that the respective syllogisms that the Examiner uses as a basis for combining Watt, Haun and Sheets for rejecting claims 10, 11, 21 and 22 do not cure the deficiencies in the syllogism used by the Examiner for rejecting claims 9 and 20, the respective base claims of claims 10 and 11, and claims 21 and 22.

Consequently, Applicants respectfully request that the Examiner withdraw this rejection and allow claims 10, 11, 21 and 22.

Applicant notes that additional patentable distinctions between Watt, Sheets and Haun and the rejected claims exist; however, the foregoing is believed sufficient to address the Examiner's rejections. Additionally, failure of Applicant to respond to a position taken by the Examiner is not an indication of acceptance or acquiescence of the Examiner's position. Instead, it is believed that the Examiner's positions are rendered moot by the foregoing and, therefore, it is believed not necessary to respond to every position taken by the Examiner with which Applicant does not agree.

CONCLUSION


In view of the above amendments and arguments which present the claims in better form for consideration on appeal, it is urged that the present application is now in condition for

allowance. Should the Examiner find that a telephonic or personal interview would expedite passage to issue of the present application, the Examiner is encouraged to contact the undersigned attorney at the telephone number indicated below.

It is requested that this application be passed to issue with claims 1-7, 9-18 and 20-22.

Respectfully submitted,

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